

***Ellington Broadcasting
P.O. Box 617
Webb, MS 38966***

August 22, 2017

Steven A. Broeckaert
Senior Deputy Chief, Policy Division
Media Bureau
Federal Communications Commission
445 12th Street, SW
Washington DC, 20554

**Re: Ellington Broadcasting, WHCQ-LD v Cable One Inc. (MB Docket 17-96)
Ellington Broadcasting, WPRQ-LD v Cable One Inc. (MB Docket 17-58)**

Response To Cable One's Retest Letter

I, David Ellington, d/b/a Ellington Broadcasting, licensee of WHCQ-LD and WPRQ-LD ask the Commission to accept this letter as a response to Cable One's Retest Letter filed on August 14, 2017. A certificate of service is shown in Exhibit #1.

WHCQ-LD Never Requested Carriage In Batesville, MS, Therefore Cable One's Demand For Copyright Reimbursement Payment Is Immaterial To Carriage In Clarksdale, MS And Other Local Service Areas.

Cable One states on page 3 of the "Ellington Retest Letter" that "Cable One's carriage of the station in Batesville may therefore result in additional distant carriage copyright liability under the cable compulsory license, costs for which Cable One is statutorily entitled to seek reimbursement from Ellington Broadcasting."

WHCQ-LD made no must carry request for Batesville, MS. WHCQ-LD made the must carry request for carriage in Clarksdale, MS and has met all requirements for carriage in Clarksdale, MS, which is within the 35 mile **copyright free zone** from WHCQ-LD's transmitter location. Moreover, Clarksdale, MS, Duncan, MS, and Lyon, MS are part of the Clarksdale Cable One system and all located within WHCQ-LD's local service area. As a matter of fact, the town of Duncan, MS is located only 18 miles from Cleveland, MS and is in Bolivar County, the same county as WHCQ-LD and the same television DMA, Greenwood – Greenville, MS DMA.

Consequently, Cable One is obligated to carry WHCQ-LD in these areas and is under no obligation to carry the station in Batesville, MS, which is located outside the local service area. In addition, as recently as 2006, Batesville, Mississippi's Cable One system was a completely separate cable system with its own principal headend and tower.

Due To An Amendment Made To The Copyright Act in 2010, Cable One Cannot Use The Distant Signal Copyright Liability In Batesville, MS To Withhold Carriage of WHCQ-LD in Clarksdale, MS And Other Local Service Areas.

As stated by the U.S. Copyright Office, "the STELA Act of 2010 amended section 111(d)(1) of the Copyright Act, which sets forth the method by which cable operators can now calculate royalties on a community-by-community, or subscriber-group, basis. Beginning with the 2010/2011 accounting period, and all periods thereafter, cable operators will pay royalties based upon **where the distant broadcast signal is actually offered rather than on a system-wide basis.**" So, no longer will a distant signal that is carried in one part of the cable service area trigger a system-wide copyright liability. Therefore, Clarksdale, MS and Batesville, MS are by definition considered two separate communities in regards to the amended Copyright Act.

Consequently, Cable One cannot claim that by carrying WHCQ-LD in Clarksdale, MS, it will trigger a system-wide distant signal copyright liability simply because the system also serves Batesville, MS. Clarksdale, MS is within the copyright free zone for carriage of WHCQ-LD in Clarksdale, MS, therefore, Cable One has no copyright liability resulting from carriage of WHCQ-LD in Clarksdale, MS and other local service areas.

Moreover, Cable One should follow the Commission's orders and commence carriage of WHCQ-LD in Clarksdale, MS and other local service areas (Duncan, MS, Lyon, MS, and any parts of Coahoma and Bolivar County that may fall within the local service area of WHCQ-LD) on channel 8 within the timeframe set forth by the Commission. The channel election was made by WHCQ-LD in the initial must carry request letter dated January 13, 2017.

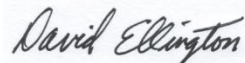
WPRQ-LD Will Accept The Signal Test Results Performed In Cleveland, MS As Not Meeting The Commission's Standard For Signal Strength, However, WPRQ-LD Would Like To Correct Cable One's Incorrect Statement Concerning WPRQ-LD's Carriage Request in Cleveland.

Cable One states on page 2 of the Ellington Retest Letter, "...the system already carries two low power stations WNBD-LD and WHCQ-LD, and therefore carriage of WPRQ-LD, a third low power station, is not required." This statement is incorrect because WNBD-LD is not a "**qualified**" LPTV station for must carry due to the fact that its city of license is Grenada, MS, which is over 35 miles from the Cable One Cleveland, MS headend tower. So, WPRQ-LD would indeed be entitled to carriage in Cleveland, MS.

WPRQ-LD Will Again Seek Must Carry Status In Cleveland, MS Once It Becomes A Licensed 3kW Station, Therefore Increasing Its Output Power And Meeting The Required Signal Strength Level For Carriage In Cleveland, MS.

Aside from falling short on the signal strength requirement, WPRQ-LD has met all other must carry requirements for carriage in Cleveland, MS. Therefore, once WPRQ-LD becomes a 3kW licensed station (Construction Permit File #0000014075), it asks the Commission for permission to submit a reconsideration of carriage in Cleveland, MS at that time.

Sincerely,

A handwritten signature in blue ink that reads "David Ellington".

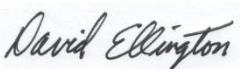
David Ellington
Ellington Broadcasting

Exhibit #1

Certificate of Service

I hereby certify that a copy of this response was sent to Cable One via USPS Mail to the following address:

Cable One
2247 Commerce Street
Grenada, Mississippi 38901

Signature:  _____

David Ellington